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Indian corporation pays record \$34 million fine to settle allegations of systemic visa fraud and abuse of immigration processes

PLANO, Texas – Infosys Limited, an Indian company involved in consulting, technology and outsourcing, has agreed to a record \$34 million civil settlement based on allegations of systemic visa fraud and abuse of immigration processes, and also agreed to enhanced corporate compliance measures. The \$34 million payment made by Infosys as a result of these allegations represents the largest payment ever levied in an immigration case.

This [settlement](#) was announced by U.S. Attorney John M. Bales, Eastern District of Texas. This case was investigated by special agents from U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI), the Department of State's Diplomatic Security Service, and by attorneys from ICE's Office of Principal Legal Advisor.

Infosys is located in 30 countries and in 17 U.S. cities, including a location in Plano, Texas. The Plano location is responsible for handling the immigration practices and procedures for U.S. operations of Infosys. Infosys brings foreign nationals into the United States to perform work and fulfill contracts with its customers under two visa classification programs relevant to this matter, H-1B and B-1.

The H-1B visa is a strictly regulated visa program that protects the American worker from unfair

competition from overseas countries that have drastically lower labor wages. The H-1B visa allows employers to temporarily employ foreign nationals needed for certain specialty occupations. The H-1B visa also protects foreign workers and mandates that they must be paid fair wages while working in the United States. H-1B visas are limited by congress to 65,000 visas nationally per year.

However, there is no limit to B-1 visitors. And the B-1 visa program only allows foreign nationals to temporarily enter the United States, for conferences, seminars, and the like. B-1 visa holders are not allowed to work in the United States. Infosys unlawfully and fraudulently used B-1 visa visitors as though they were H-1B workers in violation of U.S. immigration law.

According to [court documents](#), the government alleged instances of Infosys circumventing the requirements, limitations, and governmental oversight of the H-1B visa program by knowingly and unlawfully using B-1 visa holders to perform skilled labor to fill positions in the United States for employment that would otherwise be performed by U.S. citizens or by legitimate H-1B visa holders. The government also alleges that Infosys violated U.S. immigration laws to increase its profits, minimize costs of securing visas, increase flexibility of employee movement, obtain an unfair advantage over competitors, and avoid tax liabilities. Following are the specific allegations:

- Infosys fraudulently used B-1 visa holders to perform jobs that involved skilled labor that were instead required to be performed by U.S. citizens or legitimate H-1B visa holders.
- Infosys submitted "invitation letters" to U.S. Consular Officials that contained false statements regarding the true purpose of a B-1 visa holder's travel to deceive the U.S. Consular Officials and secure entry of the visa holder into the United States. These letters often falsely stated that the purpose of travel was for "meetings" or "discussions," when the true purpose was to engage in activities not authorized under a B-1 visa.
- Infosys directed B-1 visa holders to deceive U.S. Consular Officials, including providing specific instructions to avoid certain terminology, to secure entry of the visa holder into the United States. Infosys created a "Do's and Don'ts" memorandum that it provided to foreign nationals entering the United States on a B-1 visa that included the following directions: "Do not mention activities like implementation, design & testing, consulting, etc., which sound like work"; "Also do not use words like, work, activity, etc., in the invitation letter"; and "Please do not mention anything about contract rates."
- Infosys told its foreign nationals to inform U.S. Consular Officials that their destination in the United States was the same as that provided in the Labor Condition Application, notwithstanding the fact that Infosys knew that the destinations had changed.
- Infosys wrote and revised contracts with clients to conceal the fact that Infosys was providing B-1 visa holders to perform jobs that involved skilled or unskilled labor that were otherwise required to be performed by U.S. citizens or required legitimate H-1B visa holders.
- Infosys concealed the fact that B-1 visa holders were performing jobs that involved skilled or unskilled labor that were otherwise required to be performed by U.S. citizens or legitimate H-1B visa holders. Infosys billed clients for the use of off-shore resources when, in fact, work was being performed by B-1 visa holders in the United States.
- Infosys failed to maintain I-9 records for many of its foreign nationals in the United States in 2010 and 2011 as required by law, including a widespread failure to update and re-verify the employment authorization status of a large percentage of its foreign national employees.

The settlement agreement requires Infosys to pay \$34 million to the United States. This agreement was largely predicated on Infosys's cooperation with the United States during the investigation and on compliance measures taken by Infosys in the areas of B-1 and H-1B visas and I-9 documentation, both prior to and during the course of the investigation. The settlement agreement requires additional auditing for I-9 forms, a reporting requirement for B-1 usage, an agreement to continue to use only detailed invitation letters, and the continued use of corporate disciplinary processes for employees that violate the immigration laws of the United States.

"We will not tolerate actions that mislead the United States and circumvent lawful immigration processes,

whether undertaken by a single individual or one of the largest corporations in the world," said U.S. Attorney Bales. "The H-1B and B-1 visa programs are designed and intended to protect the American worker; and we will vigorously enforce the requirements of those programs."

David M. Marwell, special agent in charge of Homeland Security Investigations in Dallas, concurred: "This settlement against Infosys is the largest immigration fine on record. The investigation indicated that Infosys manipulated the visa process and circumvented the requirements, limitations, and governmental oversight of the visa programs. The investigation also showed that more than 80 percent of Infosys's I-9 forms for 2010 and 2011 contained substantive violations. Ultimately, these actions by Infosys cost American jobs and simultaneously financially hurt companies that sought to follow the laws of this nation. Companies that misuse the visa process can expect to be scrutinized and held accountable."

The investigation and settlement also earned the praise of George M. Nutwell III, special agent-in-charge of the Houston Field Office of the U.S. Department of State's Diplomatic Security Service said that: "The Infosys investigation illustrates the unique role that DSS plays in investigating complex visa fraud cases that reach far beyond U.S. borders. DSS collaborates with our law enforcement partners and is committed to investigating and bringing to justice those who violate the law."

This case was investigated and the settlement negotiated by Assistant U.S. Attorneys Shamoil T. Shipchandler, Alan R. Jackson, and J. Kevin McClendon, and attorneys from ICE's Office of Principal Legal Advisor.

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